

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD J. TESTA, JR., individually, and on
behalf of all others similarly situated,

Civil Action No. 07 CV 8320 (AKH)

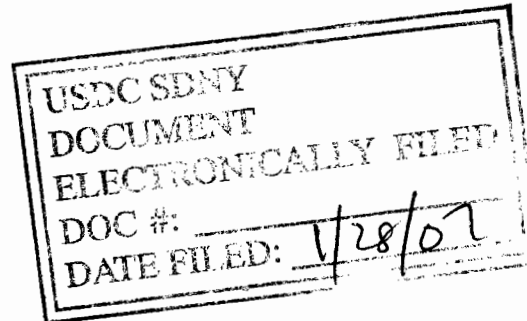
Plaintiff,

ECF Case

- against -

MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC., JOHN DOES 1-50 (said names
being fictitious individuals), and ABC
CORPORATIONS 1-50 (said names being
fictitious companies, partnerships, joint ventures
and/or corporations),

Defendants.



STIPULATION AND ~~PROPOSED~~ ORDER TEMPORARILY STAYING
PROCEEDINGS

WHEREAS, the parties to this action have agreed on terms of a memorandum of understanding memorializing their agreement to settle this matter along with several other actions pending against Merrill Lynch in various jurisdictions;¹ and

WHEREAS, a temporary stay of proceedings in this matter will facilitate the efforts of the parties in all of these cases to complete a formal settlement agreement;

¹ Specifically, in addition to the instant case, the following actions will be resolved by the settlement: (1) *Palumbo v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Eastern District of New York, CV 06-2104; (2) *France v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, United Eastern District of Pennsylvania, CV 06-00782; (3) *Reinhart v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Eastern District of Washington, CV 06-3038; (4) *Loughlin v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Eastern District of New York, CV 06-2835; and (5) *Bachrach v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated*, District of New Jersey, Civil No. 06-02786 (JLL); (6) *Garrison v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Civil No. 06-3553 (JAG), District of New Jersey; (7) *Traitz v. Merrill Lynch, Pierce, Fenner & Smith Incorporated*, Civil No. 06-3788 (FSH), District of New Jersey; (8) *Howell v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, CV 06-4872 (ADS), Eastern District of New York; (9) *Poole v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated*, CV-06-1657 HA, District of Oregon; and (10) *Wendling v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 6:06-CV-458, Eastern District of Texas.

The parties to this matter, through their counsel of record, having stipulated to the entry of an order as follows and good cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The scheduling conference in this matter currently set for February 1, 2008, is hereby taken off calendar;
2. All proceedings in this matter are hereby temporarily stayed; and
3. On or before March 31, 2008, the parties shall file a report to update the Court on the status of their settlement efforts.

IT IS STIPULATED AND AGREED that a facsimile or scanned copy of the signature(s) on this stipulation may be treated as an original for all purposes.

Dated: January 23, 2008

By: Katherine M. Forster (H)

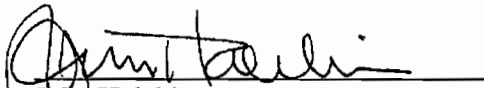
A. Michael Weber
State Bar No. AW-8760
LITTLER MENDELSON
A Professional Corporation
885 Third Avenue, 16th Floor
New York, NY 10022
212.583.9600 (Telephone)
214.880.0181 (Fax)

Terry E. Sanchez
(Admitted *Pro Hac Vice*)
California State Bar No. 101318
Katherine M. Forster
(Admitted *Pro Hac Vice*)
California State Bar No. 217609
(Attorneys-in-Charge)
MUNGER, TOLLES & OLSON LLP
355 S. Grand Ave., 35th Floor
Los Angeles, CA 90071-1560
213.683.9538 (direct)
213.593.2838 (fax)

Attorneys for Defendant Merrill Lynch,
Pierce, Fenner & Smith, Incorporated

Dated: January 23, 2008

By:



John Halebian

State Bar No. JH-8005

Adam C. Mayes (AM-1101)

LOVELL STEWART HALEBIAN LLP

500 Fifth Avenue

New York, NY 10110

212.608.1900 (Telephone)

212.719.4775 (Fax)

Kenneth A. Elan

State Bar No. KAE1729

217 Broadway, Suite 606

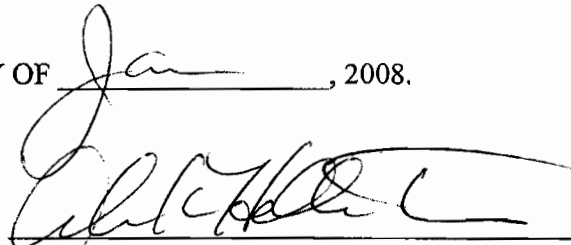
New York, NY 10007

212.619.0261 (Telephone)

212.385.2707 (Fax)

Attorneys for Plaintiff

SO ORDERED THIS 28 DAY OF Jan, 2008.



ALVIN K. HELLERSTEIN

UNITED STATES DISTRICT JUDGE